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Second session
New York, 2-4 September 2009

Summary record of the 2nd meeting
Held at Headquarters, New York, on Wednesday, 2 September 2009, at 3 p.m.

President: Mr. Bródi (Vice-President of the Conference) ..... (Hungary)
later: Prince Al-Hussein (Acting Vice-President of the Conference) ..... (Jordan)

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In the absence of Mr. Heller (Mexico), President of the Conference, Mr. Bródi (Hungary), Vice-President of the Conference, took the Chair.

The meeting was called to order at 3.15 p.m.

Matters related to the implementation of the Convention (*continued*)

(a) High-level panel on the theme "Legislative measures to implement the Convention on the Rights of Persons with Disabilities" (*continued*)

1. **Mr. Momen** (Bangladesh) said that his Government had begun formulating new laws and modifying existing legislation to implement the Convention, in consultation with civil society and all relevant stakeholders. As a first step, a more rights-based approach to disability issues had been adopted. A study had found that as many as 50 per cent of disabilities were preventable and directly linked to poverty. The Government had therefore introduced a number of "safety-net" programmes. Climate change was also a very important issue, since Bangladesh was among the most vulnerable countries and natural disasters led to an increase in the number of people with disabilities.

2. **Ms. Ruiz** (Philippines) said that her country's National Council on Disability Affairs (NCDA), transferred to the Office of the President in 2008, had begun instituting measures to promote, protect and ensure the rights of persons with disabilities, in line with the provisions of the Convention. The Council was working around the country, within the framework of the national human rights action plan, with a view to mainstreaming the human rights of persons with disabilities into regular development planning activities. The projected completion date of the action plan was set to coincide with the sixty-first anniversary of the Universal Declaration of Human Rights, in December.

3. A national social protection programme had been launched to help eradicate poverty and give more children with disabilities the opportunity for education. Many other government agencies were also cooperating on disability issues.

4. A National Disability Summit, to be held on 24 and 25 September, would provide an opportunity to take stock of current practices and indicators, formulate a framework for the implementation of the national human rights action plan, and firm up the roles of all concerned in order to respond more effectively to the concerns of persons with disabilities.

5. **Mr.** Hassan **Ali** (Sudan) said that his country continued to actively promote the rights of disabled persons, notably by adopting relevant legislation. Facilities had been established for the production of prosthetic limbs. The Government was working together with civil society organizations and associations in order to develop projects to assist disabled persons in every aspect of their lives. The conflicts in the Sudan had resulted in a growing number of persons with disabilities. Their plight had received particular attention in the south and east of the country, and most recently in Darfur. His Government was cooperating with international organizations to eliminate landmines, provide psychological and physical therapy, and ensure the disarmament, demobilization and reintegration of victims.

6. On visiting the Sudan and examining the activities of the Ministry of Social Welfare, the former Special Rapporteur on disability had welcomed the progress that had been made. The adoption of the Convention was only a beginning; joint efforts would be needed in order to further its aims. Especially in vast developing countries such as the Sudan, that task would require material and technical support. His country remained committed to the Convention, which reflected the values of the Sudanese people.

7. **Ms. Peña Paula** (Dominican Republic) said that her country had ratified the Convention and it was due to enter into force in the coming months. The Constitution was being revised to reflect the rights of persons with disabilities. The country's disability law was also being revised to bring it into line with the principles of the Convention. A number of other laws in the Dominican Republic recognized the rights of persons with disabilities in relation to a wide range of important issues. The Penal Code included several provisions highlighting the seriousness of crimes committed against persons with disabilities, and the law regulating the national police force included provisions encouraging the integration of persons with disabilities and guaranteeing their right to a pension. Legislation was being implemented gradually owing to limited resources; however, the Dominican Republic was committed to the full implementation of the Convention and had taken a number of steps towards that goal.

8. **Mr. Hermida Castillo** (Nicaragua) said that his country had various laws to protect the rights of persons with disabilities, including the victims of landmines. A law had recently been approved to guarantee instruction in Nicaraguan sign language for students with hearing disabilities. A draft law on equality for persons with disabilities was currently before the National Assembly.

9. The disability rate in Nicaragua had risen in recent years and now represented around 10 per cent of the population. The foreign aggression of the 1980s had been a significant factor in that rise. Disability, coupled with other issues related to poverty, hindered the enjoyment of basic rights. Therefore, one of the earliest initiatives of the Government of Reconciliation and National Unity had been to develop a national programme to overcome poverty and transform the country by developing an alternative, fairer development model and a more democratic power structure.

10. A number of measures were being taken to promote the rights of persons with disabilities, in such fields as education, health care and labour law. A set of minimum accessibility standards had been drawn up and work to improve the accessibility of public buildings was already under way.

11. **Mr. Dale** (Observer for the United States of America) said that disability legislation in the United States reflected the principles of the Convention. The 1990 Americans with Disabilities Act contained some of the strongest protections against discrimination in the world and amendments to it in 2008 had provided even greater guarantees. The Act had been a great achievement and served as a reminder that the shackles holding people back could be broken, not merely endured.

12. President Obama had noted that the rights of persons with disabilities were universal and should be protected around the world. Therefore, the United States had been proud to join the 141 other United Nations Member States in signing the Convention. The work of the Conference must continue outside the meeting rooms, with a view to improving the situation of persons with disabilities, many of whom could not choose the communities in which they lived, had difficulty accessing affordable quality health care, and were unemployed and living in poverty. Discrimination against persons with disabilities was not merely unjust, but also hindered economic development, limited democracy and eroded societies.

13. **Ms. Pérez Álvarez** (Cuba) said that her country had begun working on the rights of persons with disabilities long before ratifying the Convention. A National Council for persons with disabilities had been created in 1996, composed of representatives of State institutions and organizations of persons with disabilities. Cuba also had a National Action Plan for Persons with Disabilities and the Ministry of Labour and Social Security worked with organizations of persons with disabilities.

14. Within the framework of the National Action Plan, a number of legislative and practical measures had been taken in the past year, in spite of the negative impact of the international financial crisis and the blockade imposed by the Government of the United States for almost 50 years. The measures covered a variety of fields, including information technology, education, employment and social security, transport, housing, sport and culture. An increasing number of persons with disabilities were attending school and university. One important university reform allowed the teaching process to be adjusted to suit personal circumstances, helping students with disabilities to finish their courses. Particular attention had been given to providing housing for persons with disabilities after the hurricanes of the past year. Cuba had been developing an ambitious international cooperation plan to train doctors from around the world and share its experience.

15. **Mr. Dlamini** (Observer for Swaziland) said that the rights of persons with disabilities were enshrined in the Constitution of Swaziland, including their rights to education, health and employment. The Government was also redesigning its buildings to improve accessibility.

16. A school for deaf children had recently been built, in addition to existing rehabilitation facilities and vocational training centres for persons with disabilities. The Government had established a poverty fund for persons with disabilities to be used for development projects that contributed to their welfare and benefited the national economy as well. Persons with disabilities should be empowered to fully participate in all areas of society. A National Children's Policy was being finalized and included explicit references to children with disabilities.

17. Workshops had been conducted to raise awareness among the general population of the need to ratify the Convention. Two surveys were also being conducted as another step towards ratification. The first would help develop programmes for children and young people with disabilities and the second was a census that would be used as a benchmark in establishing more programmes for persons with disabilities.

18. **Ms. Blum** (Observer for Colombia) said that her country was well on its way to ratifying the Convention and had a broad, cross-cutting legal and political framework for addressing the needs of persons with disabilities. Its rights-based disability policy was founded on such principles as equality and solidarity, and its main aim was to improve conditions so that persons with disabilities could enjoy as much autonomy as possible.

19. The National Disability Council, under the aegis of the Ministry of Social Protection, is a permanent body to plan and coordinate public policy on the issue. Established in 2007, the Council was composed of representatives of high-level State bodies, alongside representatives of organizations of persons with disabilities and other civil society partners. Once the Convention entered into force in Colombia, ongoing processes would be strengthened even further, in particular, legislative initiatives and efforts to increase the participation of organizations of persons with disabilities in decision-making.

20. **Mr. Normandin** (Observer for Canada) said that his country was hoping to ratify the Convention before the end of the year, since the domestic negotiations were nearing completion. Canada provided strong guarantees for the equal rights of persons with disabilities and was committed to further reducing barriers to their full participation in society.

21. His Government had adopted measures at all levels to protect the rights of persons with disabilities, as enshrined in the Canadian Charter of Rights and Freedoms. Everyone had the right to protection under the law without discrimination, including those with mental disabilities.

22. **Mr. Poffe** (Observer for the Netherlands) said that his country welcomed the decision to hold regular sessions of the Conference of States Parties to the Convention, which would contribute greatly to raising awareness about the rights of persons with disabilities.

23. The Netherlands intended to ratify the Convention in 2010, through a procedure that would fully endorse its objectives and give it full effect in the domestic legal system. In the meantime, legislative measures were already being taken to implement the Convention, such as extending the applicability of the Act on Equal Treatment of Persons with Disabilities to include such areas as primary education.

(b) Interactive round tables on the theme "Legislative measures to implement the Convention on the Rights of Persons with Disabilities"

Round Table 1: Accessibility and reasonable accommodation

Prince Al-Hussein (Jordan), Acting Vice-President of the Conference, took the Chair.

24. **The President** said that the Convention recognized accessibility as a general principle as well as covering it specifically in article 9. Accessibility and reasonable accommodation were instrumental in the realization of basic rights for persons with disabilities. Legislative measures were needed to ensure the implementation of article 9. A dedicated organizational entity attached directly to the Office of the Prime Minister would be the most effective way of enforcing legislation on the issue, since it would bring the matter closer to the decision makers.

25. All new buildings should be built in accordance with accessibility codes and guidelines, and penalties should be imposed for failure to abide by those codes. It was important to conduct an overall study of measures that needed to be adopted to create an open, disability-friendly public system. The concept of accessibility extended beyond physical concerns and was now generally understood to include behavioural, educational, technological and linguistic accessibility.

26. **Mr. Bródi** (Hungary), Vice-President of the Conference, said that one of the most important innovations of the Convention was that it included the denial of reasonable accommodation as a form of discrimination. It also linked the issue to the promotion of equality, highlighting that equality included the right to reasonable accommodation, which might in some cases may require the State or others to allocate resources.

27. He invited the Conference to discuss ways and means of accommodating the special needs of persons

with disabilities in order to meet the requirements set out in the Convention. Allocating resources for reasonable accommodation should be viewed as an investment addressing an overall need of society, rather than just one group.

28. **Ms. Peláez Narváez** (Committee on the Rights of Persons with Disabilities), accompanying her statement with a computerized slide presentation, said that States parties' obligations under the Convention reflected the transition from a medical to a social model of disability, which implied respect for diversity and compensating for the unfavourable effects of disability by ensuring full enjoyment of rights. States parties' obligations with regard to accessibility were set out in article 9 of the Convention. Systems for auditing the level of compliance should be established and fines should be imposed for non-compliance; the resources raised could be used to fund the implementation of accessibility measures.

29. Accessibility was a cross-cutting issue mentioned in several other articles of the Convention, and States parties should maintain their commitment to it when implementing the requirement of reasonable accommodation. All implementation measures should be taken with the constructive participation of persons with disabilities and their representative organizations. In addition, international cooperation was a fundamental tool for enhancing the implementation of accessibility in countries that lacked resources.

30. **Mr. Chowdhury** (Committee on the Rights of Persons with Disabilities), accompanying his statement with a computerized slide presentation, said that the Convention did not confer new rights on persons with disabilities but rather drew together all their fundamental human rights into one legally binding instrument. Implementation of the principles of accessibility and reasonable accommodation would go a long way towards ensuring the dignity of persons with disabilities and including them in mainstream society. In each individual case, a number of practical issues needed to be taken into account, such as the special needs created by the particular disability in question, the impact of any measures on the surrounding environment, whether the measures would impose an undue financial or administrative burden and whether they were consistent with general standards such as housing codes.

31. Many countries already had laws and regulations aimed at ensuring accessibility but greater efforts were needed to ensure enforcement. States parties should aim to implement the principle of universal design in accordance with their existing resources and capacities, bearing in mind that it was more cost-effective to incorporate accessibility features during planning, design and construction phases than to remodel a structure once it had been completed. The relevant professionals should be provided with information and training in that regard. In addition, the needs of each individual country should be taken into account. For example, in developing countries, basic needs such as food security, shelter and livelihood, along with the right to education, employment and health care, were the most pressing priorities and required appropriate legislative frameworks and adequate funding. International cooperation in accordance with article 32 of the Convention was vital in order to address those priorities, particularly in the light of the global economic recession.

32. **Mr. Guzmán Jara** (Disabled Peoples' International), accompanying his statement with a computerized slide presentation, said that millions of persons with disabilities around the world lacked access to basic services. A mechanism for implementing accessibility and reasonable accommodation in the various areas highlighted by the Convention was therefore needed. Such a mechanism should consist of public investment by States in accordance with the proportion of their population made up of persons with disabilities; a fund to support national implementation of the Convention, financed by voluntary contributions from States parties, signatories, other States Members of the United Nations and private entities; and international technical cooperation in accordance with the principles of human rights, solidarity and human development. Research and data collection were also necessary in order to provide a solid basis for the mechanism. Resources should be focused on priority policies and programmes, in consultation with persons with disabilities in different countries, and should be provided to both State and civil society organizations.

33. **Ms. Hawker** (Rehabilitation International) said that accessibility and reasonable accommodation were both key to the successful inclusion of persons with disabilities in society. The denial of reasonable accommodation was a form of discrimination and,

unlike accessibility, the right to benefit from reasonable accommodation was immediately applicable. Reasonable accommodation referred to the adjustments required to enable a particular person to participate fully in society, although such adjustments might also benefit others. Further discussion was needed in order to determine precisely what was meant by an "undue burden" under article 2 of the Convention. There was also a need to dispel myths regarding the cost of implementation: studies had shown that most adjustments required no expenditure.

34. National laws should be amended in order to ensure that reasonable accommodation reflected the breadth of application envisaged under the Convention. In addition, guidelines should be developed to demonstrate the intent of the Convention. Accessible information should be provided on the right of persons with disabilities to accessible accommodation. State agencies should take a leading role and should have clear areas of accountability in that regard. Steps also needed to be taken to provide appropriate training and promote changes in attitudes.

35. Accessibility and reasonable accommodation were crucial to the transition from a medical to a social model of disability. Any measures aimed at achieving those aims must be developed in consultation with persons with disabilities themselves, so as to identify their needs accurately. Countries could learn from each other through international and regional cooperation in that regard. A huge amount of human potential was wasted if persons with disabilities were not able to participate fully in society.

36. **Ms. Pérez Álvarez** (Cuba) said that persons with disabilities faced not only physical obstacles but also obstacles to their participation in cultural life. In that regard, a broader concept of accessibility, encompassing the issues of copyright and intellectual property rights, was needed. International cooperation was essential and she expressed support for the idea of establishing a support fund. States spent millions of dollars on weapons while neglecting the needs of the millions of persons with disabilities in the world, many of whom suffered poverty or illiteracy.

37. **Mr. Mbacha** (South Africa) said that accessibility referred not only to the physical environment but also to the ability of persons with disabilities to live independently and participate fully in mainstream life. In South Africa, government departments at all levels were working to ensure accessibility to all types of facilities, including government buildings, and to provide information on topics such as safety and security in accessible formats, in accordance with the relevant legislation and policy. Measures were also being taken to improve access to health information and the news media. The national transport strategy included measures to enhance accessibility to public transport for persons with disabilities. Other programmes were in place to promote access to financial support and sports and recreation.

38. **Ms. Lisskar-Dahlgren** (Sweden) said that accessibility needed to be addressed in the general planning of society and mainstreamed into each policy area. Legislative measures were crucial to strengthening the position of individual persons with disabilities. New anti-discrimination legislation covering disability as well as other grounds of discrimination had entered into force in Sweden in January 2009, and an equality ombudsman had been appointed to ensure compliance with the law. Consultations were under way at the Government level to determine whether denial of reasonable accommodation could be regarded as a form of discrimination, what exactly was meant by "reasonable" and whether "accessibility" could be defined differently in different contexts.

39. About one third of States members of the European Union had ratified the Convention to date. As the current holder of the Presidency, Sweden would be encouraging the remaining member States to ratify the Convention and the Protocol as soon as possible. A proposed Council directive on implementing the principle of equal treatment was also under negotiation.

40. Her Government aimed to make its long tradition of cooperation between government and civil society more inclusive. To that end, men and women with disabilities and their representative organizations must be fully involved in the implementation of the Convention.

41. **Mr. Belazi** (Tunisia) said that, under a law adopted in 2005, his Government was working to ensure that the built environment, including public buildings, housing and sports facilities, was accessible to persons with disabilities. In addition, disabled persons and their companions enjoyed a number of

special benefits with regard to transport, such as free or discounted access to public transport, priority seating and reduced taxes on specially adapted vehicles. Efforts were also under way to make the media more accessible to persons with disabilities, for example by providing subtitling and sign language in television news broadcasts and other programmes, broadcasting regular radio and television programmes on the integration of persons with disabilities, and providing specially adapted information technology resources for the use of persons with disabilities in both mainstream schools and specialized education establishments.

42. **Ms. Gendi** (Egypt) said that her delegation would have liked to hear more about the issues of accessibility and reasonable accommodation in relation to a wider range of disabilities, particularly mental disabilities and multiple disabilities. Given that a large number of developing countries had ratified or signed the Convention, international cooperation was essential in order to enhance implementation. She also welcomed the idea of establishing a support fund for that purpose.

43. **Mr. Buntan** (Thailand) said that action beyond legislative measures was needed in order to achieve accessibility. The issue should be tackled at the international level and accessibility standards should be developed by a wide variety of stakeholders in different areas such as the built environment, transport and information technology. Lack of accessibility was often due to ignorance of the needs of persons with disabilities rather than a lack of resources.

44. The concepts of accessibility and universal design made the Convention unique among human rights instruments, but they needed to be embraced by the whole of society, not just by the disability community. Moreover, in some cultures, reasonable accommodation was viewed as a desirable objective to be pursued on a voluntary basis rather than as a necessity, and implementation therefore fell short of the requirements set out in the Convention. More training should be provided in that regard.

45. **Mr. Dornelles** (Brazil) said that the Convention was the first international human rights instrument to have acquired constitutional status in Brazilian legislation, although a number of laws recognizing the rights of persons with disabilities and promoting accessibility had already existed before the adoption of the Convention. Monitoring of enforcement was vital, particularly as there were no clear penalties for non-compliance. Data collection also needed to be improved so as to guide the development of measures aimed at implementing the Convention. Lastly, it was essential to facilitate the participation of civil society in public policy design, in accordance with the principle "nothing about us without us".

46. **Ms. Arias** (Peru) said that measures aimed at achieving accessibility needed to take account of the conditions in which people lived. For example, those living in poverty were particularly at risk of exclusion from services and facilities that could improve their lives. In developing countries, the implementation of various aspects of accessibility was dependent on enhanced international cooperation and exchange of experience.

47. **Mr. Waasdorp** (Observer for the Netherlands) said that his delegation was interested in learning how States parties implemented the principle of reasonable accommodation, particularly in so far as it related to access to goods and services used by the general public. Under the Convention, the precise meaning of reasonable accommodation was to be determined on a case-by-case basis. However, its consequences, in terms of minimum accessibility requirements for certain goods and services and a definition of what constituted an "undue burden" for suppliers, could be established in domestic law. Such an approach would enhance legal certainty both for suppliers and for persons with disabilities.

48. **Ms. Shalev** (Observer for Israel) said that the adoption of the Convention had helped to bring about a paradigm shift in society's perception of persons with disabilities. Her Government had been closely involved in the drafting of the Convention and, having signed it, was making preparations for ratification. Several pieces of legislation relating to accessibility and reasonable accommodation had been adopted recently, including one which stipulated that all public places and services must be accessible to persons with physical and non-physical disabilities. Her delegation wished to know what measures other States had taken in order to ensure that persons with non-physical disabilities had access to the services that they needed.

49. **Mr. ten Geuzendam** (Observer for the European Community) said that the European Community had signed the Convention and was making progress towards ratification. The Community's competence

with regard to accessibility and reasonable accommodation derived from its secondary legislation, which served to ensure consistency among the States members of the European Union in the interpretation and implementation of the Convention. A Council directive of 2000 had introduced measures to ensure equal treatment in employment, including the prohibition of discrimination on the grounds of disability and a positive duty of reasonable accommodation. Member States were required to adopt national legislation in order to implement the provisions of the directive and the Commission had the power to take action against those which failed to do so. Work was also under way at the community level to extend that legal framework to other areas besides employment.

50. **Ms. Lawson** (Mental Disability Advocacy Center), responding to a comment made by the representative of Egypt, drew attention to the Center's position paper on reasonable accommodation for persons with psychosocial and intellectual disabilities. Reasonable accommodation referred to adjustments made for a particular individual, while accessibility referred to measures taken for a group of persons. However, the two concepts were interlinked because the removal of a barrier for an entire group eliminated the need to make adjustments on an individual basis, and conversely adjustments made for one person could benefit others.

51. She urged States to ensure that any new legislation on accessibility was enforceable through, for example, planning law, regulatory mechanisms, inspections, licensing requirements or anti-discrimination law. States should also be aware of the link between lack of accessibility and discrimination. In a number of cases in Australia, accessibility issues had been recognized as a cause of indirect discrimination, while United Kingdom law established the concept of anticipatory reasonable adjustments, which was also provided for in a new draft European directive.

52. **The President** urged that all State parties to implement the Convention fully, stressing that accessibility and reasonable accommodation must be regarded as basic human rights. Priority should be given to capacity-building efforts, with the full involvement of persons with disabilities, and guidelines for universal design should be developed. Legislation safeguarding the rights of persons with disabilities should lay the foundations for a culture of inclusion cherished by all sectors of society. Lastly, he emphasized the importance of international cooperation and urged those States which had not yet ratified the Convention to do so as soon as possible.

The meeting rose at 6.05 p.m.